

according to his actual worth in property? Or can the granting of any such exemption be within the delegated and limited authority of the General Assembly of Maryland, any more than within the scope of the limited prerogative of a king of England?

In the Roman empire, under the reign of Augustus, a tax of five *per cent.* was imposed upon all legacies and inheritances of a certain value, which were not given to the nearest of kin on the father's side; so that, when the rights of nature and poverty were thus secured, it seemed reasonable that a stranger, or a distant relation, who acquired an unexpected accession of fortune, should cheerfully resign a twentieth part of it for the benefit of the state. (*l*) The British government has imposed a similar duty on legacies and shares of personal estate. The adjustment and imposition of which tax upon all subjects of testamentary donation, susceptible of being inspected, handled and valued, could give rise to no difficulty. But it is otherwise as to the valuation of a legacy given by way of annuity for life, which involves a consideration of the expectation of the life during which it is given. And therefore, as to such cases, the British statute has laid down certain rules by which the present value of such legacies given by way of life annuities might be calculated and ascertained, upon which present value the tax is to be imposed. (*m*)

This direction of the Declaration of Rights of Maryland, that every person ought to contribute his proportion of public taxes according to his actual worth in property, must be extended to all limited and life interests in property as well as to all absolute and unlimited estates; and therefore here, as under the British statute, to impose a tax in due proportion it becomes necessary, in like manner, to ascertain the present value of all life interests which may be made the subject of taxation. It would seem, that this rule has been taken from the most approved writers on political economy; according to whom, as we have seen, the contribution of each citizen should be in proportion to his abilities; that is, in proportion to the revenue which he enjoys under the protection of the state. If this be the true meaning of this constitutional rule, then he alone, who draws a revenue from his property, or has the present command of its profits, can be made to pay a tax upon it. A naked reversioner or remainderman cannot be taxed, as he not

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(*l*) Gibbon's Decl. and Fall Rom. Emp. ch. 6.—(*m*) 36 Geo. 3, c. 52; 55 Geo. 3, c. 184; Matthews on Executors, 193, and App. B.; Ram. on Assets, 251.